

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS : Robert K. Samson CONFIRMATION NO.: 9675
SERIAL NUMBER : 09/766,277 EXAMINER : Daniel S. Felten
FILING DATE : January 19, 2001 ART UNIT : 3692
FOR : INVESTMENT GUIDANCE SYSTEM WHICH ENABLES INDIVIDUALS TO RATE
AND SELECT ASSETS BASED ON PERSONAL INVESTMENT PREFERENCES

Via EFS

APPLICATION FOR ADJUSTMENT OF PATENT TERM UNDER 37 C.F.R. § 1.705(b)

Applicant requests reconsideration of the patent term adjustment under 37 C.F.R. § 1.705(b) to 1670 days as of the mailing of the Notice of Allowance. In support of this request, Applicant submits the following statement of facts pursuant to 37 C.F.R. § 1.705(b).

- (i) The United States Patent and Trademark Office (“Office”) calculated the adjustment under 35 U.S.C. § 154(b)(1)(A) as 1217 days (USPTO A Delay). Applicant does not dispute this number.
- (ii) The Office calculated the adjustment under 35 U.S.C. § 154(b)(1)(C) as 984 days (USPTO C Delay). Applicant does not dispute this number.
- (iii) The correct reduction of patent term under 35 U.S.C. § 154(b)(2)(C) for Applicant’s failure to engage in reasonable efforts to conclude prosecution of the application is 531 days (not 662 as calculated by the Office). This number differs from that calculated by the Office by 131 days.

The Office mailed a Non-Final Rejection on July 12, 2005. The application went abandoned on October 13, 2005 for Applicant’s failure to timely file a proper Response. The application was later revived based upon the granted petition decision mailed on June 19, 2006. Applicant believes that the Office incorrectly calculated the number of days of Applicant delay for the abandonment period according to 37 C.F.R. § 1.704(c)(3) as 131. However, in accordance with 37 C.F.R. § 1.704(c)(3), Applicant should have been assessed with 250 days of Applicant

delay for the time period of October 13, 2005 (the date of abandonment) to June 19, 2006 (the date of mailing of the decision reviving the application).

Moreover, Applicant believes that the entry of 210 days of Applicant delay for filing of the May 10, 2006 Response to the Non-Final Action is also incorrect. While Applicant agrees that the May 10, 2006 Response does constitute a failure to engage in reasonable efforts to conclude prosecution of the application, Applicant submits that this entire time period of delay according to 37 C.F.R § 1.704(b) overlaps completely with the abandonment time period. Thus, Applicant believes there should be 0 days of Applicant delay assessed for this event.

Furthermore, Applicant believes that the Office incorrectly assessed the Applicant with an additional 131 days of Applicant delay for the Response filed on September 18, 2006. The Response filed on May 10, 2006 was considered to be an informal Response. Thus, on September 18, 2006, the Applicant filed a reply or other paper correcting the omissions in the May 10, 2006 Response. According to 37 C.F.R § 1.704(c)(7), the time period of reduction associated with the September 18, 2006 Response is from May 11, 2006 (the day after the date that the reply having an omission was filed) to September 18, 2006 (the day the reply or other paper correcting the omission was filed), resulting in 131 days of Applicant delay. However, 40 days of the Applicant delay for this event overlap with the Applicant delay during the period of abandonment. As a result, the Applicant should only have been assessed with 91 days of Applicant delay for the filing of the September 18, 2006 Response.

In summary, Applicant respectfully requests an adjustment of patent term to indicate a total PTA (as of the mailing date of the Notice of Allowance) of 1670 days, which is the sum of periods under 35 U.S.C. § 154(b)(1)(A) (1217 days) and 35 U.S.C. § 154(b)(1)(C) (984 days), less the sum of the periods under 35 U.S.C § 154(b)(2)(C) (531 days), for a total of 1670 days.

The above-identified application is not subject to a terminal disclaimer. Prior to the October 11, 2012 mailing date of the Notice of Allowance, Applicant submits that there were no circumstances constituting a failure to engage in reasonable efforts to conclude processing or examination of the application as set forth in 37 C.F.R. § 1.704, other than the circumstances described above.

Applicant reserves the right to request reconsideration of the patent term calculated under 35 U.S.C § 154(b)(1)(B).

Pursuant to 37 C.F.R. § 1.705(b) and § 1.18(e), the fee required for filing this application for patent term adjustment is believed to be **\$200.00**. No additional fees are believed due. Please charge any additional fees due, or credit any overpayment of same, to Deposit Account No. 50-0311, Customer No. 30623, Reference No. 29240-001.

Respectfully submitted,

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